

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:23-CR-00293-HEA
	)	
BRANDON BOSLEY,	)	
	)	
Defendant.	)	

**MOTION TO CORRECT ORDER AND REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

COMES NOW the United States of America, by and through its Attorneys, Sayler A. Fleming, United States Attorney for the Eastern District of Missouri, and Hal Goldsmith, Assistant United States Attorney for said District, and submits this Motion to Correct Order and Report and Recommendation of United States Magistrate Judge (ECF No. 67), and states to this Honorable Court as follows:

1. On April 8, 2024, Defendant filed his Motion to Compel the Government to Comply with its Discovery Obligations (ECF No. 51).
2. On April 11, 2024, the United States filed its Response to Defendant's Motion to Compel the Government to Comply with its Discovery Obligations (ECF 53).
3. On May 8, 2024, Defendant filed his Reply (ECF No. 59) to the Response of the United States (ECF No. 53) to Defendant's Motion to Compel Discovery (ECF No. 51).
4. On May 14, 2024, the United States filed its Motion for Leave to File Under Seal (ECF No. 61), along with its Memorandum in Support (ECF No. 62). Attached as Exhibit 1 to the Sealed Memorandum in Support was the Response of the United States of America to

Defendant's Reply in Support of Motion to Compel the Government to Comply with its Discovery Obligations (ECF No. 62, Exhibit 1).

5. On May 14, 2024, this Court granted the United States' Motion for Leave to File Under Seal (ECF No. 63). At that time, ECF No. 62, Exhibit 1, the Response of the United States of America to Defendant's Reply in Support of Motion to Compel the Government to Comply with its Discovery Obligations, should have been docketed by this Court.

6. On May 28, 2024, this Court held a Hearing (ECF No. 65) on Defendant's Motion to Compel the Government to Comply with its Discovery Obligations (ECF No. 51). During that Hearing, the undersigned Assistant U.S. Attorney, as well as defense counsel, referred to the substance of the Response of the United States of America (ECF No. 62, Exhibit 1) in making their respective arguments. It was the belief of the undersigned Assistant U.S. Attorney that this Court had reviewed the May 14, 2024 Response of the United States of America (ECF No. 62, Exhibit 1) prior to the May 28, 2024 Hearing, as this Court referred to the substance of that Response in its questioning of counsel during that Hearing.

7. Despite this Court granting leave to file the Response under seal on May 14, 2024, and the Court's reference to it during the May 28, 2024 Hearing, the Court did not docket the Response of the United States (ECF No. 62, Exhibit 1) until June 14, 2024 (ECF 66).

8. In its June 17, 2024 Order (ECF 67, at page 2), this Court stated, "The Court heard more argument regarding the Motion to Compel on May 28, and deemed that Motion wholly submitted at the conclusion of the hearing. *Nonetheless, the government filed its surresponse on June 14.*" (emphasis added) This despite the fact that the United States had timely filed its Response on May 14, 2024 with leave of this Court, and this Court had referred to this Response of the United States during the May 28, 2024 Hearing.

9. The Clerk of Court has now corrected the Docketing to accurately reflect the Response of the United States was properly filed with this Court on May 14, 2024.

10. The United States would respectfully request this Court to correct its June 17, 2024 Order and Report and Recommendation of United States Magistrate Judge to properly reflect that the United States had timely filed its Response (ECF No. 62, Exhibit 1; Now ECF 66, as modified), on May 14, 2024, well before the May 28, 2024 Hearing as referenced above.

Respectfully submitted,

SAYLER A. FLEMING  
United States Attorney

/s/ Hal Goldsmith  
HAL GOLDSMITH, #32984(MO)  
Assistant United States Attorney  
111 South Tenth Street, 20th Floor  
Saint Louis, Missouri 63102  
Hal.Goldsmith@usdoj.gov  
Telephone: (314) 539-2200  
Facsimile: (314) 539-3887

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 20, 2024, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

All Attorneys of Record.

/s/ Hal Goldsmith  
HAL GOLDSMITH, #32984MO  
Assistant United States Attorney